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Shall equality supplant liberty?

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SHALL EQUALITY SUPPLANT LIBERTY?

BEING A

REVIEW OF MR. SUMNER'S BILL AND SPEECH.

The cardinal proposition in the Declaration of Independence, "that all men are created equal," taken with its context, is a very plain and self-evident one. Sophistry has been employed to show that it implies equality in physical strength and beauty; in wealth and social advantages; in moral and intellectual endowments. But the candid common sense of the American people never for a moment understood the phrase to mean anything different from what is taught in the Old and New Testaments, that God is no respecter of persons; that all men are to be held accountable at the bar of eternal justice, and to be weighed in the same moral scales, measured by the same standards of truth and equity. The phrase also manifestly implies that human laws and tribunals should be equally just with the divine, and that in meting out justice between man and man, no discriminations should be made on account of wealth, talents, ancestry, race, or color. The whole passage, taken together, necessarily implies this, and nothing else. It is as follows:

"We hold these truths to be self-evident, that all men 'are created equal; that they are endowed by their Cre-'ator with certain inalienable rights; that among these are 'life, liberty, and the pursuit of happiness."

The purpose of those who would have us believe that the statement implies a moral and intellectual equality is easily understood. They simply mean to bring the basis of American institutions into contempt and ridicule, by showing it to be absurd, and that it leads to the destruction of all distinctions between virtue and vice; between ignorance and culture; and between character and the want of it. This perversion of the Declaration of Independence

originated with English Tories, who were naturally averse to the principles of liberty; and during the late slavery controversy it was adopted by the defenders of that institution. Happily, it has been exploded with the system itself; and all men, in every part of the Union, are beginning to go back to the sober, common-sense view of our great charter which universally prevailed in revolutionary times.

It is to be lamented that so conspicuous a champion of liberty as Mr. Sumner, by pushing his theories of "equality before the law" to an unwarrantable extreme, has to some extent given countenance to the misrepresentations of the sophists referred to above. He is not content with giving equal liberty to black men; but, in the name of equality, he insists on laying at their feet some of the most sacred rights of white men. This I propose to show in a brief review of his "Civil Rights" amendment to the Amnesty bill. The first section is as follows:

"That all citizens of the United States, without distinc-
'tion of race, color, or previous condition of servitude, are
'entitled to the equal and impartial enjoyment of any ac-
'commodation, advantage, facility, or privilege furnished
'by common carriers, whether on land or water; *by inn-*
'*keepers; by licensed owners, managers, or lessees of theaters or*
'*other places of public amusement;* by trustees, commission-
'ers, superintendents, teachers, or other officers of common
'schools, and other public institutions of learning, the same
'being supported by moneys derived from general taxation
'*or authorized by law; by trustees or officers of church organiza-*
'*tions, cemetery associations, and benevolent institutions incor-*
'*porated by national or State authority;* and this right shall
'not be denied or abridged on any pretense of race, color,
'or previous condition of servitude."

The remaining sections impose heavy pains and penalties, consisting of fines and imprisonment in the penitentiary for years for the violation of the provisions of this first section. I have italicized the most objectionable features of the section, but shall have occasion to comment on other portions of it.

I am not disposed to dispute the proposition, that all citizens are entitled to the "enjoyment of any accommodation, advantage, facility, or privilege furnished by common car-

riers," especially by such as carry the mails, or in any way are supported by the Government, or enjoy special privileges. All people are entitled to the use of the public highways. The railroad companies not only carry the mails, but they have chartered privileges, such as, that no other road shall be constructed too near them. They also had the privilege of cutting their way through the lands of the people, on payment of damages fixed by others than the owners of the lands; and hence, the whole people have acquired the right to travel on them. The stage lines are in large measure supported by their contracts for carrying the mails, and the right of every citizen who can pay his way to travel in them is thus secured. The duty of steamboats which do not carry the mails to transport all passengers who apply, is not apparent, since they are strictly private enterprises. The rivers are open to the public, and anybody who is able, may run a boat from any one point to another. They are licensed and taxed, but that is a poor privilege, and they should not on that account be compelled to take unwelcome guests on board.

That public schools, supported by taxation, ought, as a general rule, to be free to all, there can be no doubt. But circumstances may make it expedient to have separate schools for different classes; and in this case there ought to be perfect equality in the distribution of the school fund. Each class of society should have its proportion, according to its numbers. As an illustration, I will take the case of North Carolina, with whose arrangements in this respect I am most familiar. About two-thirds of the population are whites, and one-third blacks or of African descent. The whites, therefore, have the control of the question of public schools in their own hands. They can establish public schools, or they can leave the business of education to be looked after by the people in their individual and social capacities. In the exercise of their discretion, they decided to have public schools, but on these terms, viz: that there shall be separate schools for the whites, and separate schools for the blacks, equally provided for by taxation. This plan was adopted by the Radical Republican party when four-fifths of the Legislature were with it.

The Democrats and Conservatives, of course, acquiesced in and approved the plan, so that it was unanimously adopted. Even the colored people approve of it, conscious that it is the only feasible plan of public education—the only one by which their children can be educated. In point of fact, nearly all the school, as well as the other taxes, are paid by the white people. The poll tax, which is mainly devoted to the public schools, is not collected from the blacks in half the cases.

I believe that the plan adopted in North Carolina has been generally fallen upon in the South, where a common school system exists; and it is manifest that the enactment of Mr. Sumner's bill into a law will tend to destroy the educational systems of the South. The white people will not sustain a system of mixed schools; and his bill should be entitled, "An act to break up the common schools of the country."

A common school system is not a public necessity, it is not an institution essential to an organized society, like a judiciary or an executive.

The first half century of our national existence passed away before any State south of Mason and Dixon's line had a system of common schools. Contrasting the great statesmen of the past with the small politicians of the present day, the southern people have not before their eyes, in any part of the Union, the most conclusive argument in favor of the common school system. Will Mr. Sumner weaken the argument, and strengthen the southern prejudice against New England's peculiar institution, by attempting to enforce by federal authority a most repulsive uniformity?

The statesman is not called upon to determine the ethnological and moral questions which have been mooted, as to the relative merits of the white and black races. He should see to it that they have equal rights and equal advantages of public education; but it is no part of his duty to force the two races into a repulsive social contact. It is a recognized principle of constitutional law that women are citizens; and their personal rights are as sacredly protected by law, but not more so, than those of men; yet it

is only within a few years that any of them have been admitted into colleges, dedicated to the education of the male sex. They are not now admitted into any such institution as a matter of legal right—not even into Harvard. In like manner males are never admitted into institutions devoted to the education of females.

The reason for this separation of the sexes is founded in expediency. There are those who are beginning to doubt and deny the expediency; but thus far the common sense of the country and of the world is on the side of separate schools for the sexes.

But if, for reasons of expediency, separate schools may be established for males and for females, who are only different classes of citizens, why may not expediency dictate the separation of other classes in the process of education? It is true that Mr. Sumner, in his bill and in his speech, very logically, from his premises, ignores the right to separate the sexes while at school. If it becomes a law, no female institution in the country "authorized by law" can maintain its exclusive character. Its "trustees, commissioners, superintendents, teachers, or other officers" are commanded, on pain of fine and imprisonment, not to exclude any "citizen of the United States" from the "equal and impartial enjoyment of any accommodation, advantage, falicity, or privilege furnished" by the same. He may not have intended to make this sweeping effacement of the distinctions of sex, yet so his bill reads, and so his argument runs.

But supposing the intent and purport of his bill to be different, and that it admits of separate schools for the sexes; and it follows, that he allows, from motives of expediency, an infringement of contitutional rights, as he construes them. Females are only citizens, and not citizens of the highest order, since they cannot vote; yet, if I have misconstrued Mr. Sumner's bill, he would, in that alternative, allow them to have separate schools, from the enjoyment of which other citizens are excluded. And this is enough. It admits, on this construction, the propriety and expediency of separate schools for different classes of citizens; and it is not for him to determine that no other

classes shall be separated. The question is one of constitutional right. If, on the other hand, he means by his bill to sweep away the distinctions of sex as well as race, I can in that view leave the case in the hands of the whole American people, confident that no considerable number of them will favor the gross idea of introducing rude boys, whether white or black, into those nurseries of refinement and culture—the female seminaries, colleges, and convents of the country.

It will have been observed that Mr. Sumner's bill not merely guarantees the right of all citizens to admission into all schools founded on or supported by taxation, but to all that are "authorized by law;" in other words, to all academies, colleges, and schools that have been chartered by national or State authority; though the charter is nothing more than a right to sue and be sued, and to have perpetual succession in its officers. The endowment may have been given by private parties for a specific purpose: as, for instance, to educate females; to educate men for the ministry in a particular church; to educate orphans of a particular class and locality. It is no matter. Mr. Sumner's "Thorough" sweeps away all these private, denominational, and local rights, in order to establish his system of universal "equality."

In this connection I will remark, that the demand of the Catholics to have separate common schools has been acquiesced in by the State of New York and by other northern communities, while the resistance to the demand was never founded in constitutional scruples, that I am aware of. It has been contended by the Protestants that a denominational separation of the school fund would dissipate and destroy its efficiency, while the Catholic justly claims that he ought not to be taxed for the support of a system of education which he deems hostile to his religion. I understand that this was the view taken by Mr. Seward when Governor, and that he sanctioned the separation of the school fund.

In his zeal for "equality" Mr. Sumner will invade the sacred precincts of the church, and unveil the mysteries of the Masonic and Odd Fellows' lodges. The churches are

nominated in the bill, and their officers, from the bishop and clergy to the sexton, are warned, as they would escape the felon's doom and companionship, not to exclude any "citizen of the United States" from "the equal and impartial enjoyment of any accommodation, advantage, facility, or privilege furnished" by them. In other words, the several churches must sell or rent pews to any citizen who applies, although his views may be antagonistic to the church, and his real purpose be to vote out the vestry, the trustees, or committee of management, by whatever name called. Indeed, it is not clear that a bishop could refuse the rite of confirmation, or a clergyman the sacrament of the Lord's supper, to a "citizen of the United States" under this system of leveling equality. It may be said that the closing sentence of the section qualifies what precedes, and that the denial of right is not to be based on the fact of "race, color, or previous condition of servitude;" but in view of the very positive and unqualified language of the body of the section, which declares "that all citizens of the United States, without distinction of race, color, or previous condition of servitude, are entitled to the equal and impartial enjoyment of any accommodation, advantage, facility, or privilege furnished" by the churches, it will be deemed dangerous to rely on the final clause as a safeguard against fine and imprisonment.

If this bill should become law, it will be needless to amend the Constitution, as has been suggested, by a clause recognizing the being of God and the truth of Christianity. What its author proposes is the union of Church and State; the enforced conformity of all denominations with his standard of "equality." Whatever else the churches may put into their creeds, they must not hold that any citizen of the United States, whether Jew or infidel, black or white, is not good enough to take his seat with the elders and disciples at the communion table.

In vain the Constitution of the United States and those of the separate States have guarantied the most perfect freedom of worship; in vain has a complete and perpetual separation of Church and State been declared. These sacred rights of the individual to worship God according

to the dictates of his conscience, and of classes of individuals to associate themselves together for the purpose, are to be invaded, and to give way to the higher demands of "equality." He heads the pamphlet edition of his speech with the taking title "Equality before the Law," but his bill puts equality against the law, above the law, and against the rights of the citizen.

The Masons and Odd Fellows are in like predicament with the churches, being described as "benevolent institutions, incorporated by national or State authority." They will have no alternative, but must surrender up their hidden mysteries to the first comer who can show his claim to citizenship. If he should be a citizen of African descent, the danger of black-balling him will be great, for it will be for a court and jury chosen in some of the States by a majority of colored voters to say whether he was black-balled on account of his character or on account of his "race, color, or previous condition of servitude." If the latter conclusion should be reached, the whole lodge must go to jail, besides paying a heavy fine; for it is not to be presumed that they would ferret out and "deliver up" the recusant black-baller.

The effect, if not the purpose of the bill, is to take from the people all right to indulge their private and peculiar tastes. Under its provisions there could not be a social club of gentlemen, a ladies' sewing society, a boat club, a debating club, a shooting club, or any other organization, for pleasure, for business, for religion, or for benevolence, having corporate rights, but it must be invaded with this leveling principle of "equality," which takes away all individual liberty, and becomes despotism in its most odious form.

I now come to the consideration of the obligations imposed upon innkeepers and theatrical managers and lessees. And first, the innkeepers. I give Mr. Sumner's authorities as presented by himself. He says:

"The summary of our great jurist, Mr. Justice Story, 'shows the law:

"'An innkeeper is bound to take in *all travellers and way-* 'faring persons and to entertain them, if he can accommodate 'them, for a reasonable compensation.'

"'If an innkeeper improperly refuses to receive or pro-
'vide for a guest, he is liable to be indicated therefor.'—
'*Story's Commentaries on the Law of Bailment*, § 476.

"Chancellor Kent states the rule briefly, but with fullness
'and precision:

"'An innkeeper cannot lawfully refuse to receive guests
'to the extent of his reasonable accommodations, nor can
'he impose unreasonable terms upon them.'—*Kent's Com-
'mentaries*, vol. 2, p. 592.

"This great authority says again, quoting a decided case:

"'Innkeepers are liable to an action if they refuse to re-
'ceive a guest without just cause. The innkeeper is even
'indictable for the refusal, if he has room in his house and
'the guest behaves properly.'—*Ibid.*, p. 595.

"And Professor Parsons, in his work on Contracts, so
'familiar to lawyers and students, says:

"'He cannot so refuse unless his house is full and he is
'actually unable to receive them. And if on false pretense
'he refuses, he is liable to an action.'—*Parsons on Contracts*,
'p. 627.

"The importance of this rule in determining present duty
'will justify another statement in the language of a popular
'Encyclopedia:

"'One of the incidents of an innkeeper is, that he is *bound*
'*to open his house to all travellers, without distinction, and has no*
'*option to refuse such refreshment, shelter, and accommodation as*
'*he possesses*, provided the person who applies is of the de-
'scription of a traveller, and able and ready to pay the cus-
'tomary hire, and is not drunk or disorderly or tainted with
'infectious disease.'—*Chambers' Encyclopedia, article Inn.*

"And the Encyclopedia adds:

"'As some compensation for this *compulsory hospitality*
'the innkeeper is allowed certain privileges.'

A reader not accustomed to legal studies might draw the inference from these authorities, as they are quoted by Mr. Sumner, that they state what is now, and has always been, the law of this whole land, North and South. Indeed, immediately following the foregoing citations he declares that this is the case. He says:

"'Thus is the innkeeper under constraint of law, which
'he must obey; 'bound to take in all travellers and wayfar-

'ing persons;' 'nor can he impose unreasonable terms upon 'them;' and liable to an action and even to an indictment 'for refusal. Such is the law.'

"'With this peremptory rule opening the doors of inns 'to all travellers, without distinction, to the extent of author-'izing not only an action, but an indictment for the refusal 'to receive a traveller, it is plain that the pending bill is only 'declaratory of existing law, giving to it the sanction of 'Congress.'"

In the first place, Justice Story expressly states, in the preface to the work quoted, that it is a treatise on the English common law of bailment; and he refers much of it, in its origin, to the Roman, or civil law. There is not more than one reference to American law in his chapter on innkeepers, and that has no relation to the question involved. And Mr. Sumner, who is so thoroughly acquainted with the Constitution and laws of the United States, ought to have stated in his speech that the common law is not the law of the federal Government. That the Constitution does not recognize it; and that the federal courts have no common-law jurisdiction. Perhaps all of the States, except Louisiana, have adopted the common law, so far as it is consistent with their respective constitutions, laws, and circumstances; but no further. Not one of them, except perhaps Massachusetts and Vermont—and they only within a few years—ever gave negroes the benefits of common-law rights to their full extent.

In the second place, although the English common law of bailment is generally received in this country, that portion of it which requires an innkeeper to open his house to all travellers, without distinction of race, "provided the person who applies is of the description of a traveller, and able to pay," &c., has never been the law in the United States—not even in Massachusetts—until recent years, if at all; for, from an incidental remark in the Senator's speech, one would infer that the laws of that State are still dictated by what he denounces as the "barbarous tyranny" of slavery, which he declares, still stalks in the Senate chamber.

I proceed to establish these propositions by historical facts, which Mr. Sumner will not dispute, and which are

within the vivid recollection of the present generation. I begin with Massachusetts, in which State the abolition of slavery is coeval with the adoption of her constitution in 1780. Six years afterwards, in 1786, her legislature prohibited intermarriages between whites and blacks, or persons of African descent. In 1834, after Mr. Garrison commenced the agitation of the slavery question, the Legislature refused to repeal this law. In 1843, however, the prohibition was abolished. My authority for this and the following statements in regard to the condition of the colored people is Mr. Hurd, who has published two interesting volumes in Boston on the "bondage and freedom" of the negro race. He presents other facts in the history of Massachusetts, showing that although she was foremost in abolishing slavery, she for a long time retained on her statute-books very grievous disabilities founded on the color of the skin.

Similar laws against intermarriages were passed in Maine in 1821, the year after the State government was organized, and they were not repealed up to the period of the rebellion. They are doubtless still in force.

In Connecticut the elective franchise was taken away from the colored people in 1818, and never restored until since the adoption of the XVth Amendment to the Constitution of the United States. Negroes from other States were not allowed to attend school in Connecticut.

The same exclusion from the polls was adopted and enforced in Pennsylvania and New Jersey, accompanied with other degrading disabilities, such as a disqualification to testify against whites. They were never removed by the people of those States until since the war.

In New York a property qualification was made the condition of suffrage for black men, while no such condition was imposed on the whites. This, with other disabilities, were removed by the XVth Amendment.

Ohio, Indiana, Illinois, Michigan, Wisconsin, and Iowa not only excluded persons of African descent from the polls and from the witness-box, where whites are parties, and forbade intermarriages with whites, but they denied to the unfortunate race the right to settle within their

limits, on pain of fine, imprisonment, and expulsion. It is needless to recite in detail the barbarous codes of these free States. Their constitutions and statutes relating to the negro seem to have been plagiarized from those of South Carolina and Mississippi; and they never relented, with trifling exceptions, until since the close of the war.

Even Kansas and Nebraska, those twin children and first-born of the great anti-slavery revolution, excluded negroes from the polls, and prohibited intermarriages between the races.

These indisputable facts of history, drawn from the statute-books of the northern States, demonstrate the absurdity of Mr. Sumner's statement, that what Story, Parsons, and Kent lay down as the law of England in regard to innkeepers, is also, as a matter of course, the law of the United States.

The idea that a class of men who could not vote nor testify against a white person, nor intermarry with white people, had at the same time a legal right to be received into any hotel or theater, is preposterous. In the northwestern States, as I have shown above, negroes were not even allowed to settle, much less to demand entrance into a hotel. The law made it necessary for them to skulk and conceal themselves from the faces of men.

The emphatic declaration of Mr. Sumner, that American innkeepers are, and have been, from the days of Kent and Story, bound by law to receive all travellers of African descent if they are able to pay their way, is, therefore, untrue in point of fact, and he can only mean by it, that they ought of right to be thus bound.

But I have closely examined his authorities, and I find in them other interesting statements in regard to innkeepers, to which I propose to call attention. I do so because he has failed to state, in the first place, that the Roman or civil law differed from the common law, in that it did not require an innkeeper to receive all travellers, but left the matter to his discretion. In the second place, he fails to explain why the common law, though borrowed largely from the civil, as it regards bailment, differed from it in this respect. Judge Story, in the same treatise and

chapter quoted by Mr. Sumner, makes the following statement:

"By the common law (*which in this respect differs from 'the Roman law*) an innkeeper is not, if he has suitable 'room, at liberty to refuse to receive a guest who is ready 'and able to pay him a suitable compensation."

I find the same statement in other authors; but Story is sufficient authority. In another place he quotes the Roman Ulpian in support of an edict, which held innkeepers to a rigid account for the goods of their guests, on the ground that they were under no obligation to receive them, and therefore voluntarily contracted to take care of them. The Roman law was based on the common-sense principle, that innkeepers have their rights as well as other people; and that to force all sorts of vulgar and disreputable people upon them would be unjust. If inns were set up by Government, or if their keepers enjoyed any peculiar privileges at the expense of the general public, there would be reason for the exaction that they shall entertain all comers. But in the absence of any such public endowment or privileges, the requirement that a private citizen, in his own house, upon his own ground, shall receive and entertain all who call, and be responsible for their goods, whether he will or no, is tyranny, however time-honored.

I will now proceed to show how this requirement came to be made of English innkeepers, and that the reason for it has ceased to exist. I find the following statement in another of Mr. Sumner's authorities—Chambers' Encyclopedia. It immediately follows the passage quoted by him, and is a part of the same paragraph. It is said that if an innkeeper

"'Sets up a new inn where there is no need of one, to 'the hindrance of ancient well-governed inns, he is in-'dictable and fineable, and by statute such inn may be sup-'pressed.'"

I find the same fact stated in Hawkins' Pleas of the Crown, which is a higher authority than the Encyclopedia. It is therefore certain, that the obligation imposed by the common law upon innkeepers, requiring them to entertain all travellers who call, was not in its origin an arbi-

trary freak, but a reasonable exaction, in consideration of the exclusive monopoly they enjoyed. The innkeeper was a favorite of Government, and was defended against competition, on the condition that he would engage to entertain all travellers who might call. But this exclusive privilege, which was the reason of the requirement, has long since passed away in England, and perhaps never existed in any part of this country.

The reason for the law having ceased, the law itself should cease, according to a well-settled principle of jurisprudence. It is unjust to enforce the condition, after the monopoly, which was the consideration for it, has been taken away. Every man who chooses can now set up an inn or hotel, when and where he pleases, just as he may set up a store or a work-shop. It is competent for colored men to set up hotels or inns all over the country, and in fact they do have their boarding houses, and sometimes their hotels. In every city and village they are to be found; and there is not a wayside station on the railroads where refreshments may not be had.

Admit that a colored man in travelling suffers inconvenience, still, it is only an inconvenience; and it is not at all comparable with the inconvenience which would be suffered by a white family, if compelled, on pain of abandoning perhaps the pursuit of a lifetime, to entertain a black man, to take him to their tables, their parlors, and lodge him in their beds. Neither is the inconvenience suffered by black men "on account of race, color, or previous condition of servitude," to be compared with that of the still greater number of white men, who would be turned away, with disdain, from any fashionable hotel in New England, on account of poverty and plainness of dress. If the innkeeper has no rights which travellers are bound to respect, I see no reason why he should not be made to entertain those who belong to the numerous class of laboring white poor, as well as the very small class of colored men who have means. All over the South, as well as the greater part of the North, owing to the prejudice against color, innkeepers would prefer to entertain ten poor white men, to one well-to-do black man.

I am not attempting to justify the prejudice against color. I only maintain that it exists; that it is one of the controlling sentiments of the people; that religious convictions are not stronger; and that while it should not be allowed to trespass on the rights of others, the attempt should not be made in the name of law to conquer it. We are all prone to regard the religious sentiments of those who differ from us as more or less the result of pre-

judice, yet there is no right which the Constitution and laws more studiously protect than the enjoyment of these diverse notions of religion. In like manner social prejudices, whether well or ill-grounded, are held of right, and cannot be legislated away. Mr. Sumner is willing to leave nothing to time, but would level all distinctions by statute. We owe to our fellow-men and to society, high, imperative, sacred duties, which law cannot enforce nor attempt to enforce without becoming tyrannical. The scope and province of law is to prevent men from injuring each other. The office of religion is to teach them to love one another. The attempt to enforce uniformity in religion has never failed to lead to tyranny in the Government and corruption in the Church; and all efforts to enforce kindness and good-fellowship in the name of "equality" must begin with a despotic intermeddling in private affairs, and end in greater alienation of classes.

Hotels or inns are private property. The State contributes nothing to their establishment, gives them no exclusive privilege, and does nothing for them more than it does for private residences. On the contrary, the State levies a special tax on inns, as such, which is certainly not a mark of special regard or favor; and yet this is the sole, preposterous, ground for the exaction that they shall receive and entertain all travellers. The principle has never, as I have shown, been carried to the extent of compelling white innkeepers to receive black travellers. It ought not to be required in any case. The reason which gave rise to the custon has ceased to exist, as explained above; and the principle of the Roman law should be adopted. In fact, as we all know, innkeepers never take in unwelcome guests in this country. They are always willing to receive white persons of respectable appearance; and they reject with disdain an applicant for lodging, though he may be honest and worthy, if his dress and appearance indicate that he moves in a sphere much below the average guests of the house. A hod-carrier or other common laborer would be turned adrift from the fashionable hotels of Boston, and he would have no redress; but under Mr. Sumner's bill, the rejection of a colored applicant would be a dangerous experiment. His presence, though well dressed, and with a pocket full of money, would be as little welcome as that of the hod-carrier; but as the representative of a race, whose rights are guarded by special laws, and by well-organized associations, he would become a formidable suitor in court.

If this bill of "equality" should become a law, there could be no evasion of its provisions by inn or hotel-keep-

ers, as some have vainly imagined. They would not cease to be innkeepers by taking down their signs and surrendering their licenses. It is a well-settled principle of American as well as English law, that neither the sign nor the license is necessary to make a house an inn. If a man is in the habit of receiving travellers into his house, and requiring pay for the same, those facts constitute him an innkeeper. Every boarding house in the land which is in the habit of receiving transient guests—and there are few that do not—would be bound by this law of "equality." Let no one, therefore, flatter himself that he can escape by the evasion of taking down his sign, or surrendering a license.

As it regards churches, Masonic and Odd Fellows' lodges, and theaters, it is not pretended by Mr. Sumner that either in England or America any common-law right of admission for all comers has existed; but in violation of individual and social rights he proposes, in the name of "equality," to open these institutions to the public. Their very nature and constitution make them exclusive. They are only associations of individuals, and they have a right to be exclusive. There exists the same right to compel a banking or mercantile association to take in an unwelcome partner, as there does to constrain a church, a lodge, or a theater, to receive an unwelcome member or attendant. If the church were a part of the State, as in European monarchies, there would be reason for such a law of "equality."

Equality before the law is the plea for these various tyrannical invasions of the rights of individuals and classes. But equality must not supplant liberty.

An enforced equality becomes the most galling despotism. There is no right more sacred than that of choosing one's associates and guests. There is no right so essential to the existence of virtuous and honorable society. It involves the purity, refinement, and elevation of females; the moral training of children; and the whole happiness and respectability of families. A man could live under any of the known despotisms of the Old World, and enjoy this sacred right. He might be a subject of the Czar, the Sultan, or the Emperor of China, without forfeiting it; but under Mr. Sumner's cruel and remorseless law of "equality," he must surrender the inestimable privilege at the church-door, at the lodge, at the club-room, at the theater, and at the hotel. There is no tyranny so searching, so galling, and so degrading as this doctrine of "equality" imbodied in this bill, which pursues its victims from the cradle to the grave. JEFFERSON.

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